



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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SEP 07 2010

Ref: EPR-N

Mr. Vince Hooper
Project Manager
Royal Gorge Field Office
Bureau of Land Management
3028 E. Main Street
Canon City, CO 81212

RE: Over the River DEIS CEQ#20100260

Dear Mr. Hooper:

The U.S. Environmental Protection Agency, Region 8 (EPA), has reviewed the Over the River Draft Environmental Impact Statement (DEIS) dated July 15, 2010 prepared by the U.S. Bureau of Land Management (BLM). Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C) and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609. It is EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project, which includes a rating of the environmental impact of the proposed action and the adequacy of the NEPA document.

The Over the River DEIS evaluates potential impacts associated with a temporary work of art consisting of fabric panels suspended across the Arkansas River from Parkdale, Colorado to west of Wellsville, Colorado, near the Chaffee County boundary. There are six action alternatives considered in the DEIS. Three alternatives include installation of 5.9 miles of fabric with differences in boat access and other management considerations. The other three alternatives include suspension of fabric across the river for shorter distances – 4.8 miles, 4.1 miles and 1.4 miles. The BLM Royal Gorge Field Office administers the public lands in the project area and has not identified a preferred alternative.

In accordance with our policies and procedures for reviews under NEPA and Section 309 of the Clean Air Act, EPA has rated all the action alternatives in this Draft EIS as "Environmental Concerns – Insufficient Information" (EC-2). The comments provided in this letter are applicable to each of the project alternatives analyzed in the DEIS. The No Action alternative is rated "Lack of Objections" (LO). A copy of EPA's rating criteria is attached. The overall content and analyses in the DEIS seems to be thorough and the alternatives and associated impacts are clearly stated. However, the EC-2 rating is given because EPA's review has identified environmental impacts that should be avoided or mitigated and/or there is additional information that should be included in the Final EIS (FEIS) to fully evaluate impacts

associated with this project.

EPA Concerns

Overall Project Footprint

EPA is concerned about the impacts created by the number of visitors expected to travel to the area during the exhibit. According to DEIS estimates, visitation is expected to reach 525,000 people during the four-week period of highest interest (i.e., the two-week exhibit, and the weeks before and after the exhibit) for Alternative 1a; expected visitation numbers are lower for each of the other alternatives. This volume of visitation will contribute to impacts associated directly with the alternatives contemplated in the DEIS. For example, direct impacts in the Project Area through potential overcrowding at campgrounds and subsequent dispersal of visitors to less desired areas could result in impacts to and/or potential conflicts with wildlife and other ecological damage in addition to impacts caused by installation, exhibition and removal activities. This may also impact the neighboring towns with issues related to traffic capacity, traffic policing services, emergency services, hotel/motel/camping facilities, restaurants, etc. EPA recommends that the FEIS analyze options to minimize such impacts from visitors through arrangements with the municipalities, campgrounds, Chambers of Commerce or other entities to provide additional needed services. Such arrangements will help assure safety and emergency services to visitors and residents, mitigate the volume and footprint of visitors to the exhibition area and reduce negative impacts on local residents. Such considerations would have direct beneficial effect on traffic, recreation and wildlife and would be in accordance with 40 CFR 1502.14(c), which states that reasonable alternatives not within the jurisdiction of the lead agency should be considered.

Traffic Mitigation

The DEIS provides a very thorough analysis of estimated impacts to traffic flow during the project; however, EPA recommends that additional evaluation of transit opportunities (i.e. bus tours), or other means to reduce the number of vehicles travelling along US 50 during the event, be included in the FEIS to further mitigate traffic-related congestion and delay. This would also help to reduce accident response times. EPA also suggests that alternatives described in Section 2.13, that were eliminated from the DEIS, be given further consideration. Though it is understood the “Wave starts/viewing windows” alternative may not meet the needed capacity, some version of this alternative might provide benefit. Also, promotion of group transit through provision of “park & ride” locations for visitors, along with “exclusive” viewing opportunities for those using transit, could provide incentive for visitors to use transit and reduce the number of vehicles along the US 50 corridor, further alleviating traffic-related congestion and concerns.

Wetland and Riparian Areas and Sensitive Vegetation

The DEIS outlines several mitigation efforts to reduce potential impacts associated with aquatic habitat, wetland and riparian areas. EPA suggests that the FEIS discuss additional mitigation opportunities such as requiring the applicant to implement “avoidance zones” in areas

where wetland or sensitive vegetation populations have been identified. These areas should be identified and demarcated prior to initiation of the project and avoided by workers and visitors and/or equipment.

EPA suggests additional discussion be included in the FEIS describing how matting and other best management practices will be used and managed to further mitigate effects of trampling on wetlands or sensitive vegetation.

Hazardous Materials and Spill Response

There is extensive discussion devoted to hazardous materials in the DEIS; however there are some inaccuracies and omissions that should be corrected. Section 3.17.2.1, page 3-184 (Regulatory Overview) fails to outline the reporting requirement under the Clean Water Act as amended by the Oil Pollution Act that any discharge, or threat of discharge, of a harmful quantity of oil to navigable waters of the United States or adjoining shorelines be reported immediately to the National Response Center (40 CFR Part 300.300(b) and Section 311(b)(3) of the Clean Water Act). "Harmful quantity of oil" has been defined as any quantity that causes sheen on the water surface. Since it is later stated in the DEIS that petroleum products are the hazardous materials that will be used in the greatest amount throughout the project, this language should be corrected in the FEIS and this item should be included in training provided to project staff.

Section 4.17 states in its subsections that any contaminated media generated in any spill response and cleanup activities would be managed as a solid waste. This is potentially inaccurate; contaminated soils or water could fit the definition of "characteristic hazardous wastes," depending on the material and quantity spilled. In addition, if materials eligible for recycling are spilled or released, they may no longer be fit for recycling and would have to be managed accordingly. Thus this language should be corrected in the FEIS to state that "any contaminated media will be disposed in accordance with appropriate Resource Conservation and Recover Act regulations."

Section 4.17.2.1.b. (Hazardous Materials Storage) and all subsequent project management plans should be modified to describe the basic control measures that will be used when storing hazardous materials, such as segregation of incompatible materials and fencing and locks to limit access to these materials. Due to the proximity to the Arkansas River, secondary containment of fuels or other hazardous materials should be considered even if the capacity is below the threshold of 1,320 gallons as defined in the Spill Prevention, Control, and Countermeasure regulations.

Finally, to decrease response times and impacts from potential spills, the FEIS and subsequent project management plans should consider contingencies for telecommunications access if a release occurs in an area lacking cell phone coverage or other telecommunication capabilities.

Threatened and Endangered Species and Other Wildlife Disturbance

Table 1.1. of the DEIS outlines the consultation process between BLM and U.S. Fish and Wildlife Service (USFWS) that is being conducted concurrent with the NEPA process. EPA recommends that the FEIS include a more detailed description of this consultation process as well as the current status of the process for the project, including current findings, recommendations or documentation provided by USFWS. Given the potential impacts to bighorn sheep and other state species of concern, EPA suggests a similar description be added to the FEIS to describe in more detail any coordination with the Colorado Division of Wildlife.

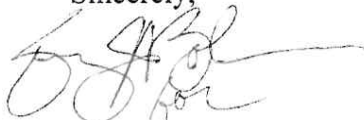
EPA recommends the FEIS include analysis of using "avoidance zones" similar to the description outlined in the "Wetland and Riparian...Vegetation" paragraph above to further mitigate impacts to wildlife. It is also recommended the FEIS evaluate the use of specialized staff or specialized government scientists to monitor potential impacts or changes to threatened and endangered species or other sensitive wildlife throughout the project. Further, such personnel could conduct appropriate reporting if there is a "take" or other issue.

Financial Arrangements

According to the DEIS, the applicant will provide all resources to support this project; funding will be made available for installation, maintenance and removal of the fabric panels. EPA recommends that the FEIS include the requirement that the applicant provide financial assurance for contingency funding in the event more significant impacts occur, such as erosion of riverbanks, a hazardous materials spill or problematic noxious weed invasion, any of which could require long-term remediation and more significant funding. Such additional financial requirements should be documented in the Record of Decision (ROD).

We appreciate the opportunity to comment on this DEIS. We hope that our comments will be of value to the BLM in preparing the Final EIS. If you have additional questions please contact me at 303-312-6004 or Gina Cristiano of my staff at 303-312-6688.

Sincerely,



Larry Svoboda

Director, NEPA Compliance and Review Program
Ecosystems Protection and Remediation

Enclosure: EPA's Rating System Criteria



U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.